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Jurgen Moser

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4557

26096

7590

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EXAMINER

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ART UNIT

PAPER NUMBER

3634

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

The status of the claims is as follows:

Claims 1-21 are herein addressed below.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Schust et al. (5,729,930). Schust et al. ('930) disclose a carriage for a window lifter comprising a vehicle pane (4), a base part (1 and 2) that is moveably mounted on a rail (column 2, lines 44-45), a clamping part (3) mounted on the base part wherein the base part (1 and 2) and the clamping part (3) accommodates the vehicle pane (4). Schust et al. ('930) further discloses an arresting mechanism. The arresting mechanism of Schust et al. ('930) is a screw (5), which adjustably secures the base part (1 and 2) to the clamping part (3). The arresting mechanism of Schust et al. ('930) may also be in the form of tabs (the side projections of element 10), which fit within recess (300), and tab (31) fitted within recess (21), and/or projections (20) fitted within recess pairs (30, the circular portions within opening of 30). Thus, the carriage of Schust et al. ('930) discloses recess and tabs in both the base part (1 and 2) and the clamping part (3) and can thus be adjustable along a longitudinal axis. Schust et al. ('930) further disclose a symmetrical carriage with respect to an axle (shaft of screw 5) of the screw (5). Schust et al. ('930) still further disclose a nipple holder (12).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schust et al. ('930) in view of Shibunushi (5,987,820). All of the elements of the instant invention are discussed in detail above except providing a barb(s) on the base part for engaging a pad in two positions. As shown in Figures 7 and 8, Shibunushi ('820) discloses a base part for mounting a pad and window pane and the base part has barbs which allows the pad to be positioned at any position along the base. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the carriage assembly of Schust et al. ('930) with a pad and barbs as taught by Shibunushi ('820) since a pad and barbs provides a more rigid connection between the base part, pad, and window pane and at the same time lowers the noise level between two parts that move relative to each other by providing the pad therebetween.

The applicant's arguments have been considered but are not deemed persuasive. It appears that the applicant's arguments are more limiting than that of the claims. As discussed in detail above, the base part and the clamping part are adjustable to accommodate various size and width panels. Furthermore, the broadly

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recited claims would read on the parts that are first attached together (a first position) and then aligning elements and tightening the elements together (a second position). It appears that the applicant is arguing how one of the elements is pivotally mounted to the second element, which defines a first and second position. The broad recitation of "two positions" fails to limit the device and the applicant appears to be relying on limitations, which cannot be found in the claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 571-272-6835.


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Primary Examiner